

ORDINANCE _____

AN ORDINANCE relating to the City's traffic code; amending various sections and subsections in Title 11 of the Seattle Municipal Code to conform with changes in state law.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 11.14.710 of the Seattle Municipal Code is amended as follows:

11.14.710 Vehicle.

"Vehicle" means every device capable of being moved upon a street or alley and in, upon, or by which any person or property is or may be transported or drawn upon a street or alley, including bicycles. The term does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. A bicycle shall not be considered a vehicle for purposes of Chapter 11.22 ((Section 11.22.025)). An electric personal assistive mobility device shall not be considered a vehicle for the purposes of Chapter 11.22 or Part 8 of this Title. A golf cart shall not be considered a vehicle except for purposes of Parts 5 and 7 of this Title. (RCW 46.04.670)

Section 2. Subsection B of Section 11.20.230 of the Seattle Municipal Code is amended as follows:

11.20.230 Ignition interlock device authorized.

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B. Subject to the exception and waiver provisions of Section 11.56.025 (L), the court shall order a person convicted under Subsection 11.56.020A or B to apply for an ignition interlock driver's license from the Washington Department of Licensing under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person. The court shall order any person participating in a deferred prosecution program under RCW 10.55.020 for a violation of Section

11.56.020 to have a functioning ignition interlock device installed on all motor vehicles operated by the person. (RCW 46.20.720)

Section 3. Subsection A of Section 11.20.340 of the Seattle Municipal Code is amended as follows:

11.20.340 Financial responsibility required.

A. No person may operate a motor vehicle subject to registration under Chapter 46.16A ~~((46.16))~~ RCW in this City unless the person is insured under a motor vehicle liability policy with liability limits of at least the amounts provided in RCW 46.29.090, is self-insured as provided in RCW 46.29.630, is covered by a certificate of deposit in conformance with RCW 46.29.550, or is covered by a liability bond of at least the amounts provided in RCW 46.29.090. Written proof of financial responsibility for motor vehicle operation must be provided on the request of a law enforcement officer in the format specified under RCW 46.30.030.

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Section 4. Section 11.22.020 of the Seattle Municipal Code is amended as follows:

11.22.020 Registration certificate.

No person shall operate or have in his possession a vehicle without carrying thereon a valid certificate of license registration and a maximum gross weight license if required for the class of vehicle as provided in RCW Chapter 46.16A ~~((46.16))~~. (RCW 46.16A.180 ~~((46.16.260))~~)

Section 5. Section 11.22.070 of the Seattle Municipal Code is amended as follows:

11.22.070 Licenses and plates required -- Penalties --Exceptions.

A. It is unlawful for a person to operate any vehicle over and along a street or alley without first obtaining and having in full force and effect a current and proper vehicle license and displaying vehicle license number plates as provided by RCW Chapter 46.16A ~~((46.16))~~. Failure to make initial

registration before operation on a street or alley is a traffic infraction, and any person committing this infraction must pay a fine of Five Hundred Twenty-Nine dollars (\$529), subject to applicable assessments, no part of which may be suspended or deferred plus any delinquent taxes and fees, which must be deposited according to RCW 46.16A.030. This fine is in addition to any delinquent taxes and fees. Failure to renew an expired registration before operation on a street or alley is a traffic infraction.

B. The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16A.140 (~~((46.16.028))~~), thereby evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable, in lieu of the fine in subsection A of this section, as follows:

1. For a first offense, up to three hundred sixty-four (364) days (~~((one (1) year))~~) imprisonment and a fine of Five Hundred Twenty-Nine dollars (\$529) plus any applicable assessments, plus a fine of One Thousand dollars (\$1000) plus any delinquent taxes and fees, no part of any of which may be suspended or deferred and which must be deposited according to RCW 46.16A.030;

2. For a second or subsequent offense, up to three hundred sixty-four (364) days (~~((one (1) year))~~) imprisonment and a fine of Five Hundred Twenty-Nine dollars (\$529) plus any applicable assessments plus a fine of Five Thousand dollars (\$5000) plus any delinquent taxes and fees, no part of any of which may be suspended or deferred and which must be deposited according to RCW 46.16A.030.

C. This section shall not apply to vehicles exempt from registration under RCW 46.16A.080. (RCW 46.16A.030) (~~((RCW 46.16.010. (RCW 46.16.010))~~)

Section 6. Section 11.22.080 of the Seattle Municipal Code is amended as follows:

11.22.080 Vehicle license plates displayed.

No person shall operate any vehicle on any street or alley unless a valid ~~((without first having displayed current and proper vehicle))~~ license plate or plates are attached thereon as required by ~~((provided in))~~ RCW 46.16A.200 ~~((Chapter 46.16))~~. The vehicle license plates shall be attached conspicuously at the front and rear of each vehicle for which the same are issued but ~~((and in such manner that they can be plainly seen and read at all times; however,))~~ if only one (1) license plate is legally issued for any vehicle such plate shall be conspicuously attached to the rear of such vehicle. Each vehicle license plate shall be placed or hung in a horizontal position at a distance of not more than four (4) feet from the ground and shall be kept clean so as to be plainly seen and read at all times; this requirement shall not apply in cases where the Washington state patrol has granted permission to deviate therefrom, as provided in RCW 46.16A.200 ~~((46.16.240))~~. (RCW 46.16A.200 ~~((46.16.240))~~)

Section 7. Section 11.22.090 of the Seattle Municipal Code is amended as follows:

11.22.090 Vehicle trip permits -- Restrictions and requirements -- Penalty.

A. Each trip permit issued under RCW 46.16A.320 ~~((46.16.160))~~ shall authorize the operation of a single vehicle at the maximum legal weight limit for such vehicle for a period of three (3) consecutive days commencing with the day of first use. No more than three (3) such permits may be used for any one (1) vehicle in any period of thirty (30) consecutive days, except that in the case of a recreational vehicle as defined in RCW 43.22.335, no more than two (2) trip permits may be used for any one (1) vehicle in a one-year period. Every trip permit shall identify, as the Washington Department of Licensing may require, the vehicle for which it is issued, ~~((and))~~ shall be completed in its entirety and signed by the operator before operation of the vehicle on a street or alley and shall not be altered or corrected. Alteration or correction ~~((Correction))~~ of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The trip permit shall be displayed on the vehicle to which it is issued as prescribed by the Washington Department of Licensing.

1 B. A violation of or a failure to comply with any provision of this section is a gross
2 misdemeanor. (RCW 46.16A.320 ((~~46.16.160~~)))

3 Section 8. Subsections B and C of Section 11.23.400 of the Seattle Municipal Code are amended
4 as follows:

5 **11.23.400 Disabled parking -- Enforcement.**

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7 B. Except as provided by subsection A of this section, it is a traffic infraction, with a monetary
8 penalty of Two Hundred Fifty Dollars (\$250), for any person willfully to obtain a disabled parking
9 placard, license plate, license tab or photo identification card in a manner other than that established by
10 RCW Chapter 46.19 ((~~46.16.381~~)).

11 C. The unauthorized use of a disabled parking placard, license plate, license tab or photo
12 identification card issued ((~~by the Washington State Department of Licensing~~)) under RCW Chapter
13 46.19 ((~~46.16.381~~)) is a parking infraction with a monetary penalty of Two Hundred Fifty Dollars
14 (\$250). In addition to any penalty or fine imposed under this subsection, Two Hundred Dollars (\$200)
15 shall be assessed, which assessment shall be allocated as provided by RCW 46.19.050 ((~~46.16.381~~)).
16 Any reduction in any penalty or fine and assessment imposed under this subsection shall be applied
17 proportionally between the penalty or fine and the assessment.

18 * * *

19 Section 9. Subsection A of Section 11.30.040 of the Seattle Municipal Code is amended as
20 follows:

21 **11.30.040 When a vehicle may be impounded without prior notice.**

22 A. A vehicle may be impounded with or without citation and without giving prior notice to its
23 owner as required in Section 11.30.060 hereof only under the following circumstances:
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* * *

1 12. When the vehicle is impounded pursuant to Washington Laws of 2011, chapter 167,
2 section 3.

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3
4 Section 10. Section 11.31.010 of the Seattle Municipal Code is amended as follows:

5 **11.31.010 Violations as traffic infractions.**

6 Except as otherwise provided in ((~~Section 12A.06.010,~~)) Section 11.34.020 or elsewhere in this
7 title, failure to perform any act required or the performance of any act prohibited by this title is
8 designated as a traffic infraction and may not be classified as a criminal offense.

9 Section 11. Subsection A of Section 11.34.020 of the Seattle Municipal Code is amended as
10 follows:

11 **11.34.020 Penalties for criminal offenses.**

12 A. Any person convicted of any of the following offenses may be punished by a fine in any sum
13 not to exceed Five Thousand Dollars (\$5,000) or by imprisonment for a term not to exceed three
14 hundred sixty-four (364) days ((~~one (1) year~~)), or by both such fine and imprisonment:

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16 * * *

17 Section 12. Subsections A, B, C, I, J and K of Section 11.56.025 of the Seattle Municipal Code
18 are amended as follows:

19 **11.56.025 Penalty for persons under the influence of intoxicating liquor or any drug.**

20 A. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has no prior
21 offense within seven (7) years and whose alcohol concentration was less than 0.15, or for any reason
22 other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result
23 indicating the person's alcohol concentration, shall be punished by imprisonment for not less than
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twenty-four (24) consecutive hours nor more than three hundred sixty-four (364) days (~~one (1) year~~)
and by a fine of not less than Three Hundred Fifty Dollars (\$350) and not more than Five Thousand
Dollars (\$5,000). In lieu of the mandatory minimum term of imprisonment required under this
subsection, the court may order not less than fifteen (15) days of electronic home monitoring.

2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has no prior
offense within seven (7) years and whose alcohol concentration was 0.15 or more, or who refused to
take a test offered pursuant to RCW 46.20.308, shall be punished by imprisonment for not less than two
(2) consecutive days nor more than three hundred sixty-four (364) days (~~one (1) year~~) and a fine of not
less than Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000). In lieu of the
mandatory minimum term of imprisonment required under this subsection, the court may order not less
than thirty (30) days of electronic home monitoring.

B. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has one (1)
prior offense within seven (7) years and whose alcohol concentration was less than 0.15, or for any
reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test
result indicating the person's alcohol concentration, shall be punished by imprisonment for not less than
thirty (30) consecutive days nor more than three hundred sixty-four (364) days (~~one (1) year~~), sixty
(60) days of electronic home monitoring, and a fine of not less than Five Hundred Dollars (\$500) nor
more than Five Thousand Dollars (\$5,000).

2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has one (1)
prior offense within seven (7) years and whose alcohol concentration was 0.15 or more, or who refused
to take a test offered pursuant to RCW 46.20.308, shall be punished by imprisonment for not less than
forty-five (45) consecutive days nor more than three hundred sixty-four (364) days (~~one (1) year~~),

ninety (90) days of electronic home monitoring, and a fine of not less than Seven Hundred Fifty Dollars (\$750) nor more than Five Thousand Dollars (\$5,000).

C. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has two (2) or more prior offenses within seven (7) years and whose alcohol concentration was less than 0.15, or for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration, shall be punished by imprisonment for not less than ninety (90) consecutive days nor more than three hundred sixty-four (364) days (~~one (1) year~~), one hundred twenty (120) days of electronic home monitoring, and a fine of not less than One Thousand Dollars (\$1,000) nor more than Five Thousand Dollars (\$5,000).

2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has two (2) or more prior offenses within seven (7) years and whose alcohol concentration was 0.15 or more, or who refused to take a test offered pursuant to RCW 46.20.308, shall be punished by imprisonment for not less than one hundred twenty (120) consecutive days nor more than three hundred sixty-four (364) days (~~one (1) year~~), one hundred fifty (150) days of electronic home monitoring, and a fine of not less than One Thousand Five Hundred Dollars (\$1,500) nor more than Five Thousand Dollars (\$5,000).

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I. In addition to any nonsuspendable and nondeferrable jail sentence required by this subsection, whenever the court imposes less than three hundred sixty-four (364) days (~~one (1) year~~) in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five (5) years. The court shall impose conditions of probation that include: (1) not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (2) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two (2) hours after driving; and (3) not refusing to submit to a test of his or her breath or blood to

determine alcohol concentration upon request of a law enforcement officer who has probable cause to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. For each violation of mandatory conditions of probation (1), (2), or (3) of this subsection, the court shall order the convicted person to be confined for thirty (30) days, which shall not be suspended or deferred. For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the court shall suspend the person's license, permit or privilege to drive for thirty (30) days or, if the person's license, permit or privilege to drive already is suspended, revoked or denied at the time the finding of probation violation is made, then the suspension, revocation or denial then in effect shall be extended by thirty (30) days. The court shall notify the Washington State Department of Licensing of a person's violation of any mandatory condition of probation imposed under this subsection and the suspension of or extension of the suspension, revocation or denial of a person's license, permit or privilege to drive. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate, including attendance at an educational program, such as a victim impact panel meeting the minimum standards established under Washington Laws of 2011, chapter 293, section 15, focusing on the emotional, physical and financial suffering of victims who were injured by persons convicted of driving while under the influence of intoxicants. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

J. In addition to the penalties set forth in this section, a fee of Two Hundred Dollars (\$200.00) ~~((One Hundred Twenty five Dollars (\$125)))~~ shall be assessed to a person who is either convicted, sentenced to a lesser charge or given a deferred prosecution as a result of an arrest for violating Subsection 11.56.020 A or B, RCW 46.61.520 or RCW 46.61.522. Upon a verified petition by the

person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay. The fee shall be collected by the clerk of the court and distributed according to RCW 46.61.5054.

K. A court may waive the electronic home monitoring requirements of this section when (1) the offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system; (2) the offender does not reside in the State of Washington; or (3) the court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty. Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp. Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four (364) (~~sixty-five (365)~~) days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four (364) (~~sixty-five (365)~~) days.

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Section 13. Subsection L of Section 11.56.025 of the Seattle Municipal Code is amended as follows:

11.56.025 Penalty for persons under the influence of intoxicating liquor or any drug.

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L. The court shall require any person convicted of an alcohol-related violation of Subsection 11.56.020A or B to apply for an ignition interlock driver's license from the Washington Department of Licensing and to have a functioning ignition interlock device installed on all motor vehicles operated by

the person. The installation of an ignition interlock device is not necessary on vehicles owned, leased or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer and driven at the direction of a person's employer as a requirement of employment during working hours. An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. The court may waive the requirement that a person apply for an ignition interlock driver's license if the court makes a specific finding in writing that the person lives out-of-state and the devices are not reasonably available in the person's local area, that the person does not operate a vehicle, or that the person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under RCW Chapter 74.20A as noncompliant with a child support order or is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license. If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility. If the court orders that a person refrain from consuming any alcohol and requires the person to apply for an ignition interlock driver's license and the person states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition interlock driver's license, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. Alcohol monitoring ordered under this subsection must be for the period of the mandatory license suspension or revocation. The person shall pay for the cost of the monitoring. The period of time for which ignition interlock use or alcohol monitoring is required will be as follows: (i)

For a person who has not previously been restricted under this subsection, a period of one (1) year; (ii)

For a person who has previously been restricted under subsection L(i), a period of five (5) years; (iii)

For a person who has previously been restricted under subsection L(ii), a period of ten (10) years.

Section 14. Section 11.58.005 of the Seattle Municipal Code is amended as follows:

11.58.005 Operating motor vehicle in a negligent manner -- Penalty.

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C. 1. A person commits negligent driving in the second degree with a vulnerable user victim if, under circumstances not constituting negligent driving in the first degree, he or she operates a vehicle, as defined in Section 11.14.710, in a manner that is both negligent and endangers or is likely to endanger any person or property, and he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way.

2. Negligent driving in the second degree with a vulnerable user victim is a traffic infraction and is subject to the penalties provided by Washington Laws of 2011, chapter 372, section 1.

D. For the purposes of this section:

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5. "Great bodily harm" and "substantial bodily harm" have the same meaning as provided in RCW 9A.04.110.

6. "Vulnerable user of a public way" means a pedestrian, a person riding an animal or a person operating any of the following on a public way: a farm tractor or implement of husbandry, without an enclosed shell, a bicycle, an electric-assisted bicycle, an electric personal assistive mobility device, a moped, a motor-driven cycle, a motorized foot scooter or a motorcycle.

Section 15. Subsection C of Section 11.56.320 of the Seattle Municipal Code is amended as follows:

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18. An administrative action taken by the Washington Department of Licensing under Chapter 46.20 RCW; or

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Section 16. Subsections B, C and G of Section 11.72.065 of the Seattle Municipal Code are amended as follows:

11.72.065 Disabled parking, Invalid Placard --Violation.

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B. Any vehicle displaying a valid disabled parking placard that is being used to transport a person who meets the criteria for special parking privileges under RCW 46.19.010 (~~(46.16)~~) shall be allowed to park free of charge for a maximum of a four hour time period where designated in parking areas (including areas with parking payment devices) which are otherwise restricted as to the length of time parking is permitted. Areas with four-hour time limits shall be appropriately signed and/or marked. Any vehicle displaying a valid disabled license plate or valid disabled parking year tab shall be allowed to be parked free of charge for unlimited periods of time in parking areas (including areas with parking payment devices) which are otherwise restricted as to the length of time parking is permitted. This section does not apply to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

C. It is a parking infraction, with a monetary penalty of Two Hundred Fifty Dollars (\$250) for any person to stop, stand or park a vehicle in a parking space or stall for a physically disabled person, whether the stall is indicated as required by subsection A of this section, by pavement markings or a sign indicating that the stall is reserved for disabled parking, for any purpose or length of time unless such vehicle displays a special placard or license plate issued under RCW Chapter 46.19 (~~(indicating that the vehicle is being used to transport a disabled person as defined under Chapter 46.16 RCW)~~). In addition to any penalty or fine imposed under this subsection, Two Hundred Dollars (\$200) shall be assessed. If a person is charged with a violation, the person shall not be determined to have committed an infraction if

the person produces in court or before the court appearance the special license plate or placard required under this section.

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G. The assessment imposed under subsections C and D of this section shall be allocated as provided by RCW 46.19.050 (~~((46.16.381))~~). Any reduction in any penalty or fine and assessment imposed under subsections C and D of this section shall be applied proportionally between the penalty or fine and the assessment.

Section 17. Section 11.72.145 of the Seattle Municipal Code is amended as follows:

11.72.145 Expired or improper license plates.

No person shall stop, stand or park any vehicle on any street or alley, or in any garage, parking area or other property operated by the City unless a valid (~~((, without first having displayed current and proper vehicle))~~) license plate or plates are attached and displayed thereon as required by (~~((provided in))~~) RCW 46.16A.200 and Section 11.22.080 (~~((Chapter 46.16))~~). (~~((The vehicle license plates shall be attached conspicuously at the front and rear of each vehicle for which the same are issued and in such manner that they can be plainly seen and read at all times: Provided, that if only one (1) license plate is legally issued for any vehicle such plate shall be conspicuously attached to the rear of such vehicle. Each vehicle license plate shall be placed or hung in a horizontal position at a distance of not less than one foot (1') nor more than four feet (4') from the ground and shall be kept clean so as to be plainly seen and read at all times: Provided, however, that this requirement shall not apply in cases where the State Commission on Equipment has granted permission to deviate therefrom, as provided in RCW 46.16.240.))~~)

Section 18. Subsection A of Section 11.84.440 of the Seattle Municipal Code is amended as follows:

11.84.440 Television viewers -- Earphones.

A. No person shall drive any motor vehicle equipped with any television viewer, screen or other means of visually receiving a television broadcast when the moving images are (~~which is located in the motor vehicle at any point forward of the back of the driver's seat, or which is~~) visible to the driver while operating the motor vehicle on a public road, except for live video of the motor vehicle backing up. This subsection does not apply to law enforcement vehicles communicating with mobile computer networks.

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Section 19. Section 11.22.030, Section 11.22.100, Section 11.22.140 and Section 11.22.240 of the Seattle Municipal Code are each repealed.

Section 20. Sections 2 and 13 shall take effect and be in force on September 1, 2011. Sections 14 and 15 shall take effect and be in force on July 1, 2012. The remainder of this ordinance shall take effect and be in force on July 22, 2011.

Passed by the City Council the ____ day of _____, 2011, and signed by me in open session in authentication of its passage this ____ day of _____, 2011.

President _____ of the City Council

Approved by me this ____ day of _____, 2011.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

Monica Martinez Simmons, City Clerk

(Seal)